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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,854	03/30/2001	Tatsuro Kawamura	43888-100	7033

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Washington, DC 20005-3096

EXAMINER

GORDON, BRIAN R

ART UNIT	PAPER NUMBER
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1743

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/820,854

Applicant(s)

KAWAMURA, TATSUROU

Examiner

Brian R. Gordon

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1-11-07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,7-9,11-25 and 29-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,7-9,14-25 and 29-31 is/are rejected.
- 7) ☐ Claim(s) 11-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed January 11, 2007 have been fully considered but they are not persuasive.

Applicant asserts the references do not disclose verifying an amount of solution is present based on the rate at which the output signal changes over time. It should be noted that the amendment to claim 1 has employed different words/text to express same idea previously expressed by the claim prior to the amendment. In view of such the previous position is maintained.

Applicant asserts Sekiyama is directed to taking multiple discrete measurements over time and such measurements would be independent from one another. Applicant further asserts multiple discrete measurements does not necessitate that the change over time itself would be used for verification and rather that each time the liquid level is "monitored and maintained" in Sekiyama would be based on a discrete measurements taken at the respective time.

Coville discloses ensuring a reservoir is filled throughout a time period of use of the device. This is done by employing a light detector. When filled the light path is blocked (no signal is received). When the level drops below a fill level the light is detected (change in signal) to indicate or verify a change in the amount of liquid has occurred.

Sekiyama et al. operates in a similar manner in which different levels of liquid are determined based on a laser voltage output signal. A change in such voltage output signal allows one to verify if a change in the amount of fluid has changed or not.

The claims do not require that a change in the signal actually occur. In the case of the references, when monitoring and maintaining a volume, if no change in the volume occurs, the value of the rate would inherently be 0, which would be observed over a time period.

For reasons given herein, the rejections as based upon Coville and Sekiyama et al. are hereby maintained.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Coville et al., US 6,398,956.

Coville discloses a method of detecting the liquid level of a sample being supplied to reservoir 12. The device includes two optical paths. The purpose of light conducting paths 30 and 32 is to permit detection of the level of fluid in reservoir 12

and/or reservoirs 12a, 12b. When light path 30 is blocked, a sense signal indicates that the reservoir is filled to its desired level. When light path 32 is unblocked, a sense signal indicates a low level of fluid in reservoir 32 (column 12, lines 11-35).

3. Claims 1, 7, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Sekiyama et al. US 5,965, 447.

Sekiyama et al. discloses a method of filling a container. The liquid level is monitored and sense as liquid is poured in the container (see column 9, lines 13-20; column 12, lines 18-15).

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1, 3-4, 7-9 and 14-25, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi et al. US 4,943,416 further in view of Seyiyama et al. as applied above.

Kikuchi discloses an automatic urinalysis system which can be readily installed at an excretion site such as a toilet and by which means a subject itself can test its urine easily at any time and can obtain results of such test. The system comprises a sample collecting means for collecting a sample of urine within a stool or the like at an excretion site, a guiding means for introducing the collected urine sample into a testing area within a body of the system, a urine testing element located within the system body, a contacting means for automatically contacting the urine testing element with the urine sample in the testing area, a urine testing means for automatically testing the urine

testing element contacted with the urine sample by the contacting means, a display means for displaying test data from the urine testing means, and a discharging means for discharging the urine sample into the stool after the urine sample has been contacted by the urine testing element (abstract).

After testing, the storage chamber and some other components of the automatic urinalysis system 1 which have contacted with the urine are washed and/or sterilized by a washing and/or sterilizing means 11 (claims 14-15).

While Kikuchi et al. disclose a urine level sensor, Kikuchi does not disclose measuring or verifying an amount over time.

Sekiyama et al. disclose methods in which a fluid level is measured over a time period.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system and method of Kikuchi et al. by incorporating level sensing devices as taught by Sekiyama et al. in order to provide an automatic urinalysis system which can easily and frequently test and analyze urine and can provide information of results of such analysis to a subject at an excretion site such as a toilet of a hotel, a department store, a firm or a house of the subject itself at which the automatic urinalysis system is installed without the necessity for the subject to take the trouble to go to a hospital or a medical testing center in order to undergo a medical testing of urine performed thereat by a doctor and/or a nurse (Kikuchi et al. column 2, line 1).

Allowable Subject Matter

2. Claims 11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

3. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not teach nor fairly suggest said light in the step (a) is also used for measuring said optical characteristic in the step (c); said sample solution is transfused from said sample cell to another sample cell after the step (b), and the rest of the steps are conducted thereafter; and step (c) is a step of detecting a light, which has been transmitted through said sample solution and an analyzer, by a photosensor to measure an angle of rotation of said sample solution, using an output signal from said photosensor as a transmitted light component.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian R. Gordon whose telephone number is 571-272-1258. The examiner can normally be reached on M-F, with 2nd and 4th F off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

brg 

BRIAN R. GORDON
PRIMARY EXAMINER